

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE FRANCISCO MOLINA, JR,  
AND JOSEPHINE MOLINA,

Debtors/Appellants.

No. C 10-5546 PJH  
Bankr. Case No. 09-71787

**DISMISSAL ORDER**

On May 13, 2011, the court issued an order to show cause re: why this case should not be dismissed based on appellants' failure to perfect the record in this bankruptcy appeal filed nearly seven months ago. In that order, the court advised appellants that if they

wish to proceed with this appeal, they are ORDERED to file **with the bankruptcy court** their designation of the items to be included with the record on appeal and the statement of issues on appeal as required by FRBP 8006 **no later than Friday, May 27, 2011**. Given that both items are currently five months overdue, the Molinas are advised that if they fail to timely file the documents in accordance with this order, the court will dismiss this bankruptcy appeal for failure to prosecute pursuant to FRBP 8001.

Review of this court's docket and that of the bankruptcy court reveals that appellants failed to file the designation of record and statement of issues in accordance with this court's order. Nor have appellants filed any explanation regarding their failure to comply with the May 13, 2011 order. Accordingly, the court DISMISSES the appeal for failure to prosecute pursuant to Federal Rule of Bankruptcy Procedure 8001 and Federal Rule of

Civil Procedure 41(b). See *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987).

**IT IS SO ORDERED.**

Dated: June 10, 2011



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PHYLLIS J. HAMILTON  
United States District Judge

cc: Clerk of the Bankruptcy Court, Oakland Div.  
Honorable William L. Lafferty